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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,914	09/29/2006	Oumeima Bcn Yousscf	9052.250	4613
20792 7590 10/05/2007 MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			EXAMINER TREYGER, ILYA Y	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 10/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/594,914

Applicant(s)

BEN YOUSSEF, OUMEIMA

Examiner

Ilya Y. Treyger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/04/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/18/2006;  
10/25/2006;09/29/2006.

### **DETAILED ACTION**

Claims 1-13 of US Application 10/594,914, filed 03/31/2004, are presented for examination.

#### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: means (19) for attaching the device to a supporting means. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

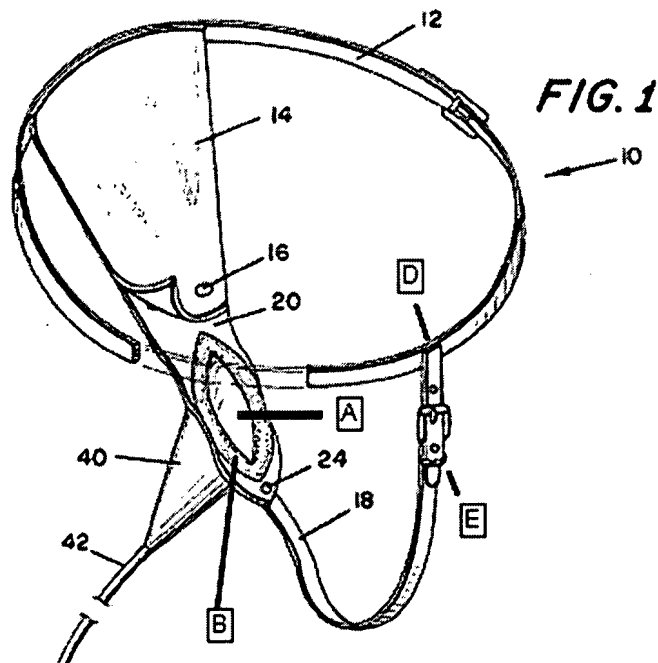
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 2, 8, and 10-13 are rejected under 35 U.S.C. 102(b) as anticipated by I. B. MAYHORN (US 3,374,790) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Giacalone et al. (US 4,615,692).

4. In Re claim 1, MAYHORN discloses a non-intrusive female urinary incontinence device comprising a flexible elastic strip (18) having a flat upper face and a lower face, an opening (A) being provided in the strip communicating between the upper and lower faces, a fluid collection means surrounding (B) the opening in a fluid tight manner on the lower face of the strip and means (24) for attaching the device to a supporting means (18), wherein the strip and opening are sized and shaped such that when it is stretch fitted over the external urogenital organs the labia minora extends through the opening and a fluid tight fit between the upper face of the strip and the flesh surrounding the labia minora and around the base of the labia minora is formed, such that in use urine is conveyed from the urethra, through the labia minora, into the collection means without leakage (See Fig. 1).



5. In the alternative, if applicant is not convinced that MAYHORN discloses a flexible elastic strip, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of MAYHORN with the flexible elastic strip, as taught by Giacalone (See Col. 2, ln. 56-58) because such modification would provide the use of the strip under tension.

6. In Re claim 2, MAYHORN discloses a device wherein the fluid collection device comprises a funnel portion (40) the curved wall of which at an upper end extends

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circumferentially from the surface of the oval region around the opening and curves inwards to a lower open end suitable for communicating with a collection vessel (See Fig 1).

7. In Re claim 8, MAYHORN discloses a device wherein the funnel is integral to the strip (Fig. 1).

8. In Re claim 10, MAYHORN discloses a device wherein the length of said straps is adjustable with respect to the waistband to allow for differences in size and shape of the user (See Fig. 1).

9. In Re claim 11, Giacalone discloses a device in which the strip portion is maintained under tension in use (See Col. 2, ln. 56-58).

10. In Re claim 12, MAYHORN discloses a urinary incontinence device further comprising a waistband (12) and means (D) for attachment to the device (See Fig. 1).

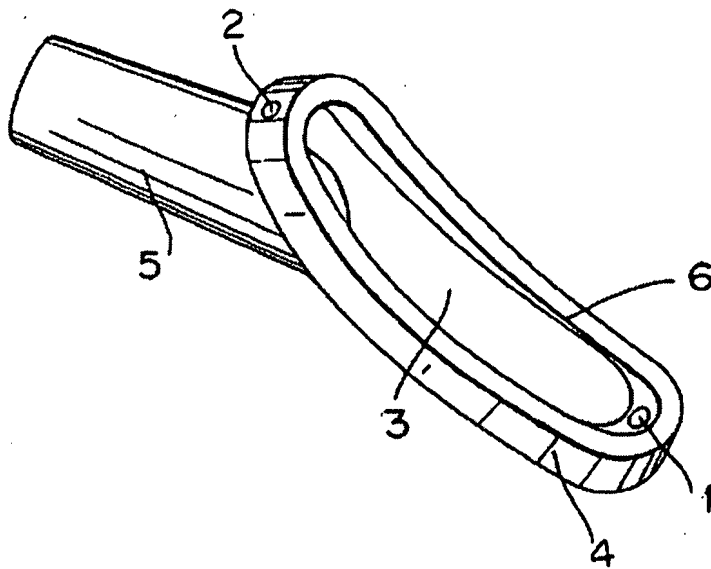
11. In Re claim 13, MAYHORN discloses a device wherein the attachment means is adjustable to maintain a positive tension on the device when in use (See Fig. 1).

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over I. B. MAYHORN (US 3,374,790) in view of Giacalone et al. (US 4,615,692), as applied to claim 2 above, and further in view of Philip J. Birbara (US 5,894,608).

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13. MAYHORN/ Giacalone disclose the claimed invention discussed above, but do not expressly disclose the device wherein the anterior surface of the wall of said funnel curves more sharply than the posterior surface, such that the lower opening at the base of the funnel lies in a lower plane than that of the opening in the strip.

14. Birbara teaches that it is known to use the anterior surface of the wall of said funnel curves more sharply than the posterior surface, such that the lower opening at the base of the funnel lies in a lower plane than that of the opening in the strip (See Fig. 1).



*FIG. 1*

15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the funnel of MAYHORN in view of Giacalone with the anterior surface of the wall of said funnel curves more sharply than the posterior surface, such that the



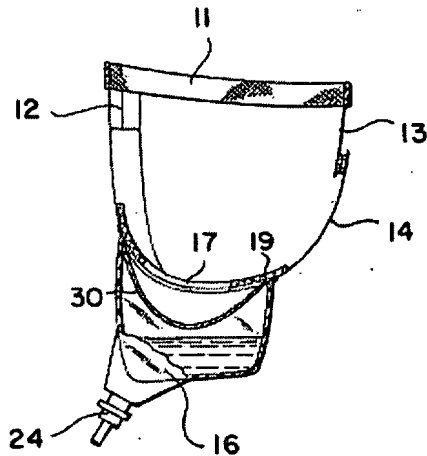
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lower opening at the base of the funnel lies in a lower plane than that of the opening in the strip, as taught by Birbara because such modification would improve the hydraulic communication with a collection vessel.

16. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over I. B. MAYHORN (US 3,374,790) in view of Giacalone et al. (US 4,615,692), as applied to claim 1 above, and further in view of Winifred Bermingham (US 4,116,197).

17. MAYHORN/ Giacalone disclose the claimed invention, but do not expressly disclose the funnel has a double-walled structure, the inner curved wall narrowing symmetrically and more sharply than the outer wall so that an internal opening is formed substantially parallel to and of smaller radius than the opening in the strip.

18. Bermingham teaches that it is known to use the double-walled funnel, the inner curved wall narrowing symmetrically and more sharply than the outer wall so that an internal opening is formed substantially parallel to and of smaller radius than the opening in the strip (See Col. 2, ln. 57-61; Fig. 2).

**FIG. 2**

19. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of MAYHORN in view of Giacalone with the double-walled funnel, as taught by Bermingham because such modification would prevent the urine from flowing back into the interior opening.

20. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over I. B. MAYHORN (US 3,374,790) in view of Giacalone et al. (US 4,615,692) further in view of Philip J. Birbara (US 5,894,608), as applied to claim 3 above, and further in view of Winifred Bermingham (US 4,116,197).

21. In Re claim 5, MAYHORN in view of Giacalone further in view of Birbara disclose the claimed invention discussed above, but do not expressly disclose a device wherein a cavity is formed between the posterior surface of the inner wall and the posterior surface of the outer wall such that, when the user is in a horizontal position, urine which has passed through the internal

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opening of the funnel is prevented from flowing back into the cavity between said opening and the oval opening of the strip.

22. Bermingham teaches that it is known to use a cavity is formed between the posterior surface of the inner wall and the posterior surface of the outer wall such that, when the user is in a horizontal position, urine which has passed through the internal opening of the hel is prevented from flowing back into the cavity between said opening and the oval opening of the strip (See Col. 2, ln. 57-61; Fig. 2).

23. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of MAYHORN in view of Giacalone further in view of Birbara with the a cavity is formed between the posterior surface of the inner wall and the posterior surface of the outer wall such that, when the user is in a horizontal position, urine which has passed through the internal opening of the hel is prevented from flowing back into the cavity between said opening and the oval opening of the strip, as taught by Bermingham because such modification would prevent the urine from flowing back into the interior opening.

24. In Re claim 6, Bermingham discloses the device wherein the inner wall and outer wall are spaced apart such that urine in the cavity is prevented from flowing back into the interior opening ((See Col. 2, ln. 57-61; Fig. 2).

25. In Re claim7, MAYHORN discloses a device wherein the exterior wall of the funnel is constructed of resilient flexible material (See Col. 1, ln. 8-10), but does not expressly disclose the interior wall constructed with substantially the same material as the strip.

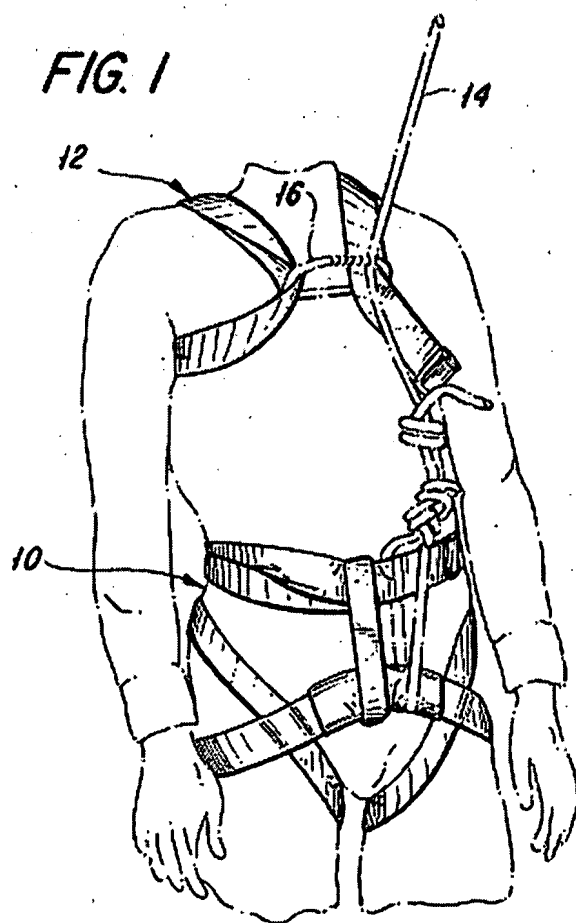
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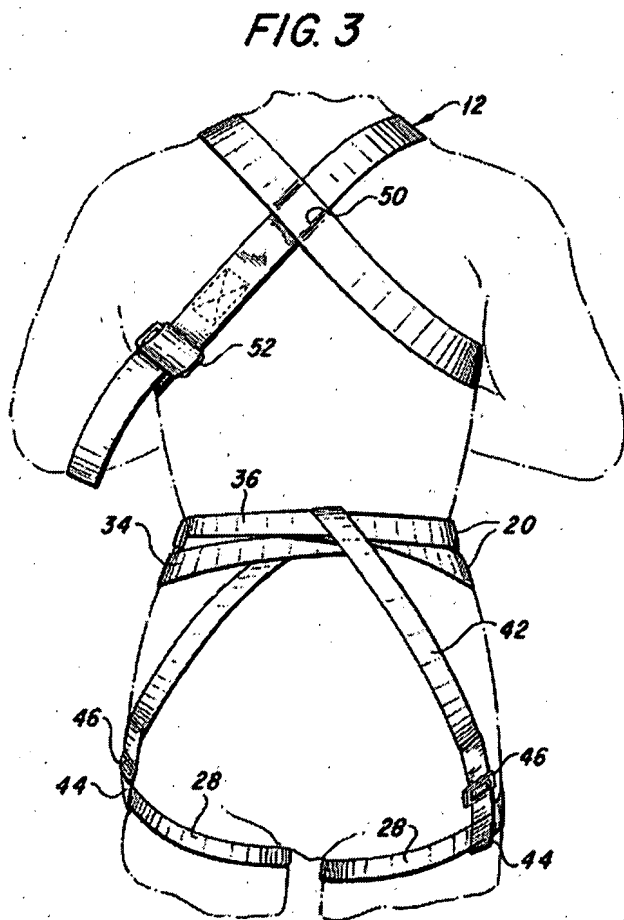
26. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the interior wall substantially the same material as the strip, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

27. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over I. B. MAYHORN (US 3,374,790) in view of Giacalone et al. (US 4,615,692), as applied to claim 1 above, and further in view of Markwell et al. (US 4,632,217).

28. MAYHORN/ Giacalone disclose the claimed invention, but do not expressly disclose the strip comprises divergent elongated straps at the front and rear to provide anterior and posterior support straps for attachment to a supporting waistband, so that in use the strip is stretched tightly over the external urogenital organs.

29. Markwell teaches that it is known to use a support system comprising of the strip comprises divergent elongated straps at the front and rear to provide anterior and posterior support straps for attachment to a supporting waistband (See Figs. 1 and 2).





30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of MAYHORN in view of Giacalone with the strip comprises divergent elongated straps at the front and rear to provide anterior and posterior support straps for attachment to a supporting waistband, as taught by Markwell because such modification would improve the maintenance of the positive tension on the device when in use.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5267988 discloses the non-invasive female urine collection device. US 4967767 discloses the Vaginal shield for preventing sexually transmitted diseases. US 3374790 discloses the External female urinal. US 6183454 discloses Externally supported female urinary collector. US 6149635 disclose an Incontinence appliance. US 3554184 disclose the Pubo-vaginal incontinence device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ilya Y. Treyger whose telephone number is (571)270-3217. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ilya Y Treyger

  
LOAN H. THANH  
PRIMARY EXAMINER

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